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10 **Attorneys for Defendant Senco Products, Inc.**

12 **UNITED STATES DISTRICT COURT**  
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 JENS ERIK SORENSEN, As Trustee of  
15 SORENSEN RESEARCH AND  
DEVELOPMENT TRUST,

16 Plaintiff,

17 v.

18 SENCO PRODUCTS, INC. an Ohio  
Corporation; and DOES 1-100

19 Defendants.

20 CASE NO. 3:08-cv-00071-BTM-CAB

21 **DECLARATION OF ROBERT S.  
MALLIN IN SUPPORT OF MOTION TO  
STAY PENDING OUTCOME OF  
REEXAMINATION PROCEEDINGS**

22 Date: May 16, 2008  
Time: 11:00 a.m.  
Courtroom: 15  
Hon. Barry Ted Moskowitz

23 NO ORAL ARGUMENT UNLESS  
24 REQUESTED BY THE COURT

1 I, Robert S. Mallin, declare:

2       1. I am a member of the bar of the State of Illinois, and I am a partner at the law firm of  
3 Brinks Hofer Gilson & Lione, which represents Defendant SENCO PRODUCTS, INC. ("SENCO") in  
4 this action. I filed a *pro hac vice* application for this case. I make this declaration pursuant to CivLR  
5 7.1(f)(2)(a) in support of the Senco's Motion to Stay Pending Outcome of Reexamination Proceedings.  
6 Unless otherwise noted, the statements made herein are of my own first-hand knowledge, and if called  
7 upon to testify thereof I could and would do so competently.

8       2. Attached hereto as Exhibit 1 is a true and correct copy of the PTO-stamped transmittal  
9 for the Request for Reexamination, dated July 30, 2007.

10      3. Attached hereto as Exhibit 2 is a true and correct copy of the Order Granting Ex Parte  
11 Reexamination, mailed October 11, 2007.

12      4. Attached hereto as Exhibit 3 is a true and correct copy of the Order Granting Ex Parte  
13 Reexamination, mailed February 21, 2008.

14      5. Attached hereto as Exhibit 4 is a true and correct copy of the Order Granting in Part and  
15 Denying in Part Defendants' Motion to Stay, dated September 10, 2007 in the case of *Sorensen v. Black*  
16 & Decker Corp., et al., U. S. District Court, Southern District of California, Case No. 06cvl572 BTM  
17 (CAB).

18      6. Attached hereto as Exhibit 5 is a true and correct copy of a Letter from Robert S. Mallin  
19 to Melody A. Kramer, dated March 12, 2008.

20      7. Attached hereto as Exhibit 6 is a true and correct copy of a Letter from Melody A.  
21 Kramer to Robert S. Mallin, dated March 12, 2008.

22      8. Attached hereto as Exhibit 7 is a true and correct copy of the Ex Parte Reexamination  
23 Filing Data - June 30, 2006, of the U. S. Patent and Trademark Office.

24      9. Attached hereto as Exhibit 8 is a true and correct copy of an excerpt from the Manual of  
25 Patent Examining Procedure, § 2250(III), page 2200-74 dated August 2006, available at  
26 [http://www.uspto.gov/web/offices/pac/mpep/documents/2200\\_2250.htm#sect2250](http://www.uspto.gov/web/offices/pac/mpep/documents/2200_2250.htm#sect2250).

1 I declare under penalty of perjury that the foregoing is true and correct. Executed this 24th day  
2 of March, 2008 in Chicago, Illinois.

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5 BRINKS HOFER GILSON & LIONE

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